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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL  
 CATALDO, JULIAN  
 SANTIAGO, and SUSAN LYNN  
 HARVEY, individually and on behalf of all  
 others similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688

**DECLARATION OF MARK MAO IN  
 SUPPORT OF PLAINTIFFS' RULE 15(a)  
 MOTION FOR LEAVE TO AMEND  
 COMPLAINT**

The Honorable Richard Seeborg

**DECLARATION OF MARK MAO**

I, Mark Mao, declare as follows:

1. I am a partner with the law firm of Boies Schiller Flexner LLP, counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of California. I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration in support of Plaintiffs' Rule 15(a) Motion for Leave to Amend Complaint.

3. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiffs' proposed Fourth Amended Complaint.

4. Attached hereto as **Exhibit 2** is a true and correct copy of a redline comparing Plaintiffs' proposed Fourth Amended Complaint to Plaintiffs' Third Amended Complaint.

5. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts of a document Google produced in discovery labeled GOOG-RDGZ-00021160. This document was produced on July 6, 2021.

6. Attached hereto as **Exhibit 4** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00130745. This document was produced on July 28, 2022.

7. Attached hereto as **Exhibit 5** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00015004. This document was produced on March 25, 2021.

8. Attached hereto as **Exhibit 6** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00020680. This document was produced on April 12, 2021.

9. Attached hereto as **Exhibit 7** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00130381. This document was produced on July 28, 2022.

1           10. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts of a document  
2 Google produced in discovery labeled GOOG-RDGZ-00130416. This document was produced on  
3 July 28, 2022.

4           11. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts of a document  
5 Google produced in discovery labeled GOOG-RDGZ-00014556. This document was produced on  
6 March 25, 2021.

7           12. Attached hereto as **Exhibit 10** are true and correct excerpts from the transcript of  
8 the September 15, 2022 deposition of Google employee David Monsees.

9           13. Attached hereto as **Exhibit 11** is a true and correct copy of a document Google  
10 produced in discovery labeled GOOG-RDGZ-00024709. This document was produced on July 6,  
11 2021.

12           14. Attached hereto as **Exhibit 12** are true and correct excerpts from the transcript of  
13 the September 9, 2022 deposition of Google employee Chris Ruemmler.

14           15. Attached hereto as **Exhibit 13** is a true and correct copy of a document Google  
15 produced in discovery labeled GOOG-RDGZ-00130322. This document was produced on July 28,  
16 2022.

17           16. Attached hereto as **Exhibit 14** is a true and correct copy of a document Google  
18 produced in discovery labeled GOOG-RDGZ-00089546. This document was produced on April  
19 27, 2022.

20           17. Attached hereto as **Exhibit 15** is a true and correct copy of a document Google  
21 produced in discovery labeled GOOG-RDGZ-00116371. This document was produced on May  
22 27, 2022.

23           18. Attached hereto as **Exhibit 16** is a true and correct copy of a document Google  
24 produced in discovery labeled GOOG-RDGZ-00039094. This document was produced on  
25 September 27, 2022.

1           19. Attached hereto as **Exhibit 17** is a true and correct copy of a document Google  
2 produced in discovery labeled GOOG-RDGZ-00171164. This document was produced on July 28,  
3 2022.

4           20. Attached hereto as **Exhibit 18** is a true and correct copy of a document Google  
5 produced in discovery labeled GOOG-RDGZ-00087964. This document was produced on July 28,  
6 2022.

7           21. Attached hereto as **Exhibit 19** is a true and correct copy of a document Google  
8 produced in discovery labeled GOOG-RDGZ-00044478. This document was produced on  
9 September 27, 2021.

10           22. Attached hereto as **Exhibit 20** is a true and correct copy of a document Google  
11 produced in discovery labeled GOOG-RDGZ-00129096. This document was produced on July 28,  
12 2022.

13           23. Attached hereto as **Exhibit 21** is a true and correct copy of excerpts of a document  
14 Google produced in discovery labeled GOOG-RDGZ-00090236. This document was produced on  
15 April 27, 2022.

16           24. Attached hereto as **Exhibit 22** is a true and correct copy of excerpts of a document  
17 Google produced in discovery labeled GOOG-RDGZ-00046896. This document was produced on  
18 September 27, 2021.

19           25. Attached hereto as **Exhibit 23** is a true and correct copy of excerpts of a document  
20 Google produced in discovery labeled GOOG-RDGZ-00020692. This document was produced on  
21 April 12, 2021.

22           26. Attached hereto as **Exhibit 24** is a true and correct copy of excerpts of a document  
23 Google produced in discovery labeled GOOG-RDGZ-00151992. This document was produced on  
24 July 28, 2022.

25           27. Attached hereto as **Exhibit 25** is a true and correct copy of excerpts of a document  
26 Google produced in discovery labeled GOOG-RDGZ-00151484. This document was produced on  
27 July 28, 2022.  
28

1           28. Attached hereto as **Exhibit 26** is a true and correct copy of excerpts of a document  
2 Google produced in discovery labeled GOOG-RDGZ-00144760. This document was produced on  
3 July 28, 2022.

4           29. Attached hereto as **Exhibit 27** is a true and correct copy of a document Google  
5 produced in discovery labeled GOOG-RDGZ-00059486. This document was produced on October  
6 22, 2021.

7           30. Attached hereto as **Exhibit 28** is a true and correct copy of excerpts of a document  
8 Google produced in discovery labeled GOOG-RDGZ-00046758.R. This document was produced  
9 on October 12, 2021.

10           31. Attached hereto as **Exhibit 29** is a true and correct copy of excerpts of a document  
11 Google produced in discovery labeled GOOG-RDGZ-00185669. This document was produced on  
12 July 28, 2022.

13           32. Attached hereto as **Exhibit 30** is a true and correct copy of a document Google  
14 produced in discovery labeled GOOG-RDGZ-00061316. This document was produced on  
15 November 1, 2021.

16           33. Attached hereto as **Exhibit 31** is a true and correct copy of excerpts of a document  
17 Google produced in discovery labeled GOOG-RDGZ-00031656. This document was produced on  
18 July 6, 2021.

19           34. Attached hereto as **Exhibit 32** are true and correct excerpts from the rough  
20 transcript of the October 25, 2022 deposition of Google employee Eric Miraglia.

21           35. Attached hereto as **Exhibit 33** is a true and correct copy of a document Google  
22 produced in discovery labeled GOOG-RDGZ-00149701. This document was produced on July 28,  
23 2022.

24           36. On September 30, 2022, Plaintiffs served Plaintiffs' Tenth Set of Requests for  
25 Production, Plaintiffs' Seventh Set of Interrogatories, and Plaintiffs' Fourth Set of Requests for  
26 Admission. These sets included a small number of requests relating to [REDACTED] and Google  
27 services other than Firebase. Plaintiffs have now served a total of 25 interrogatories and 52 requests  
28

1 for admission. Plaintiffs' latest sets of written discovery requests are their last set relating to  
2 Google's collection of WAA-off data from third-party apps.

3 37. On September 30, 2022, Plaintiffs also served notices of deposition for ten Google  
4 employees, bringing their total to fourteen.

5 38. Plaintiffs' counsel emailed Google's counsel a prior version of Plaintiffs' proposed  
6 amended complaint on October 17, 2022, including a redline showing proposed changes made to  
7 the Third Amended Complaint. During a meet-and-confer about the proposed amended Complaint  
8 with Google's counsel on October 20, 2022, Plaintiffs' counsel informed Google's counsel that  
9 Plaintiffs will not oppose reasonable discovery requests relating to matters that are newly  
10 addressed in the Fourth Amended Complaint. On October 24, Google's counsel informed Plaintiffs  
11 that Google does not consent to the amendment, and that it will oppose this motion.

12 39. On May 13, 2022, Plaintiffs' counsel sent an email to Google proposing a process  
13 in which Plaintiffs' experts would use test devices to generate app activity data using different  
14 privacy settings, and Google would produce the data as it is saved on Google's servers. To craft  
15 the specifics of this proposal, Plaintiffs need to know the locations in which app activity data is  
16 saved. Plaintiffs also served written discovery requests on May 27, 2022 seeking this information.  
17 Plaintiffs have moved to compel responses to some of those requests relating to Google's storage  
18 of WAA-off data. Dkts. 250, 253.

19 40. Google's counsel did not respond to Plaintiffs' May 13, 2022 email until August  
20 11, 2022. Google's response did not address Plaintiffs' testing proposal. Google's response  
21 identified just one new log, on top of the three it had previously identified. Google's response  
22 indicated that its search for logs containing app activity data remains ongoing.

23 41. In the following months, Google admitted that thousands of logs contain WAA-off  
24 data and refused to disclose the names of those logs to Plaintiffs.

25 42. As of September 1, 2021, Google had designated just three document custodians,  
26 and the parties had neither agreed upon nor finished motion practice regarding search terms for  
27 those custodians.  
28

43. Google did not produce a single unique document from the files of any of the 19 custodians included in Magistrate Judge Tse's December 1, 2021 Order (Dkt. 184) until July 28, 2022.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 28th day of October, 2022, at San Francisco, California.

/s/ Mark Mao